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August 9, 2018

**By Federal Express and Electronic Mail**

Diane Hanian  
Commission Secretary  
Idaho Public Utilities Commission  
472 West Washington Street  
Boise, ID 83702

**Re: Case No. IPC-E-17-13, Vote Solar's Petition for Reconsideration**

Dear Ms. Hanian:

Enclosed, please find for filing in the above-referenced case the original and seven copies of Vote Solar's Brief on Reconsideration.

Please contact me if you have any questions. Thank you for your attention to this matter.

Sincerely,

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Enclosures

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IN THE MATTER OF THE APPLICATION OF  
IDAHO POWER COMPANY FOR  
AUTHORITY TO ESTABLISH NEW  
SCHEDULES FOR RESIDENTIAL AND  
SMALL GENERAL SERVICE CUSTOMERS  
WITH ON-SITE GENERATION

## VOTE SOLAR'S BRIEF ON RECONSIDERATION

1

**I. Idaho Power Company Has Not Demonstrated A Sufficient Difference In Load Patterns To Distinguish Residential and Small Business Customers With Generation Who Do Not Export and Therefore Justify Including Those Customers In a New Class.**

**A. A New Customer Class Is Only Justified Through An Adequate Evidentiary Showing Of Difference In Cost of Service, Quantity of Electricity Used, Conditions of Service, or Time, Nature And Pattern Of Use.**

To justify a new customer class, Idaho Power Company (“IPC” or “Company”) must demonstrate a sufficient difference between customers based on “factors such as cost of service, quantity of electricity used, differences in conditions of service, or the time, nature and pattern of use.” *Idaho State Homebuilders v. Washington Water Power*, 107 Idaho 415, 420, 690 P.2d 350, 355 (1984); *see also Building Contractors Ass’n. of Sw. Idaho, Inc. v. Idaho Pub. Util. Comm’n*, 128 Idaho 534, 539, 916 P.2d 1259, 1264 (1996). IPC must make that demonstration through sufficient competent evidence in the record. *Washington Water Power Co. v. Idaho Pub. Util. Comm’n*, 101 Idaho 567, 575, 617 P.2d 1242, 1250 (1980) (Commission findings must be based on “competent and substantial evidence”) (citing *Boise Water Corp. v. Idaho Pub. Util. Comm’n*, 97 Idaho 832, 555 P.2d 163 (1976); *Hartwig v. Pugh*, 97 Idaho 236, 542 P.2d 70 (1975); *Oregon Shortline R. Co. v. Pub. Util. Comm’n of Idaho*, 47 Idaho 482, 484, 276 P. 970, 971 (1929); *Baltimore & Ohio R. Co. v. Aberdeen & Rockfish R. Co.*, 393 U.S. 87, 92 (1968)).

**B. IPC Has Not Demonstrated A Significant Difference In Cost, Quantity, Condition or Time, Nature and Pattern of Use By Residential and Small Business Customers Who Do Not Export Generation.**

IPC initially identified “two underlying rationales” for separating customer-generators from non-generating residential and small business customer classes: (1) an alleged “subsidy” to generating customers through net metering; and (2) a “fundamentally distinct” load service requirement and usage characteristics for self-generating customers. Order No. 34046 at 5 (May 9, 2018) (“Final Order”) (summarizing IPC’s Application). Both rationales relied on customer

exports. The “subsidy” claim relied on industry literature that looks to the level of credit customers receive on their bill for exported electricity. *See* Direct Testimony of Timothy E. Tatum, Ex. 5 at 2 of 5 (defining the “subsidy” as the “credit on [net metering customers’] bill when their rooftop panels generate excess power and sell it back to the utility”), 3 of 5 (purporting to “quantify[] the subsidy” based on the value of exports compared to the credit provided).<sup>1</sup> Similarly, the evidence of different load shapes relied *exclusively* on net metering customers who export. Hr’g Tr. at 758:2-12.

IPC did not introduce substantial evidence related to a “subsidy” or the loads, usage, or impacts on the grid from customers who self-generate but who do not net meter by exporting electricity to the Company’s distribution system. In fact, IPC denied even having such evidence.

Q And you don’t have any load data for what a load shape for that type of customer with battery storage and no exports looks like; is that right?

A I do not, no, and I’m not aware of the Company having any such customer to evaluate.

Q Right, and so the Commission has no data to compare a load shape of a storage with a solar customer to an average or other non-generating customer’s load shape?

A I don’t know if they do or not, but the Company doesn’t possess that and we haven’t presented it in this case, because we don’t possess it.

Hr’g Tr. at 349:16-350:2; *see also* Idaho Power Company’s Answer to Vote Solar’s Petition for Reconsideration at 6 (June 5, 2018) (“IPC Answer”) (confirming that, to IPC’s knowledge, “all R&SGS customers whose on-site generation systems are connected in parallel to Idaho Power’s system have exported excess energy to the grid”). Since IPC has no load and usage data for customer-generators who do not export, IPC is necessarily unable to make the required showing

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<sup>1</sup> IPC later largely abandoned the subsidy allegation and relied almost exclusively on an alleged difference in load shapes (time, nature, and pattern of use). *See* Surrebuttal Testimony of Timothy E. Tatum at 4:4-15 (The Company’s evidence is based on load service requirements and usage characteristics and not the cost to serve); Hr’g Tr. at 257:19-258:9, 261:5-9, 275:9-16, 530:10-16.

that such customers have sufficiently distinct load and usage characteristics to justify excluding them from the general residential and small general service classes.

Furthermore, to the extent there is any evidence in the record related to the loads of customer-generators exclusive of their export flows, that evidence compares the loads of bi-directional customer-generators when their exports are removed from their load shape. Hr'g Tr. at 770:1-771:15; *see also id.* at 775:23-776:9. This is not evidence of the load shapes or usage of customers who do not export, but as the only theoretical proxy actually indicates that those loads “overlap” with those of non-generating customers. Hr'g Tr. at 770:1-771:15. Therefore, even to the extent the Commission were to look to evidence of bi-directional customer-generators after their export flows have been stripped from load data, those data actually show no distinguishing load and usage characteristics that could justify a new class to include non-exporting customers.

IPC's Answer to Vote Solar's Petition for Reconsideration suggests that non-exporting customer-generators have different loads and usage because they “still require a variety of services from the utility” including “in-rush current requirements for starting motor loads . . . , supplemental services when solar is not available at night, and frequency services to maintain power quality” IPC Answer at 3 (quoting Hr'g Tr. at 598:17-600:15) (internal quotation marks omitted). However, those energy services are not distinguishing and, therefore, cannot be used to create a new class to include such customers. IPC's use of the phrase “still require” is telling: non-generating customers have those same loads and uses. The criteria for separating customers from an existing class is a *difference* between customers. *Idaho State Homebuilders*, 107 Idaho at 420. IPC's argument highlights the *similarities*, not the differences, between non-exporting self-generating customers and the rest of the residential and small general service classes.

## **II. The Commission's Findings And Reasoning Contained In the Final Order Do Not Support Including Non-Exporting Self-Generating Customers In Schedules 6 and 8.**

Consistent with the lack of record evidence to justify excluding non-exporting customer-generators from the existing residential and small business classes due to load shape or costs, the Commission's findings, conclusions, and reasoning were limited to customer-generators who export electricity.

- The Commission defined the new customer class as “a class of customers that uses the grid *to both import and export energy*” based on a finding of a “fundamental difference between, as an example, a residential customer with no on-site generation and one *that can both import energy from, and export it to*, the Company's grid using the same infrastructure.” Final Order at 16-17 (emphasis added).
- The Commission also explicitly referred to the new class as “bi-directional” customers, and noting that they “*push energy back to the grid*”, with the Company having limited control over the use and distribution of this somewhat unpredictable resource. *Id.* at 17-18.
- The Commission explicitly distinguished exporting customer-generators from “a class of customers that uses the grid for standard energy import” and “purely offset[s] its own energy usage outside of the grid.” *Id.* at 16-18.
- To the extent the Commission also considered customer revenue collection, and whether customer-generators pay “their fair share of fixed costs,” that analysis was also limited to the effects of “netting,” “mask[ing]”<sup>2</sup> consumption through exports, and whether “customers with on-site generation are differentiating themselves by exporting.” *Id.* at 17.
- The Commission found “bi-directionality” to be the distinguishing feature, leading to the “load and usage characteristics” such as “demand and load factors, excess net-energy exportation in the spring and summer, and more volatility in contributions to the Company's peak(s)” to justify a new customer class. *Id.* at 18. Those distinguishing characteristics are “tied to a load that includes an export component.” *Id.* at 19.

Just as the record contains no evidence of different load and usage characteristics of non-exporting customer-generators, the Commission's findings and reasoning do not support

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<sup>2</sup> “Masking” refers to monthly netting exports and imports through bi-directional flow. Hr'g Tr. at 278:24-279:5, 283:20-284:20, 345:7-16.

separating non-exporting self-generating customers from the existing residential and small business classes. Indeed, non-export self-generating customers are part of those larger classes who “use[] the grid for standard energy import[s]” because their generation—like conservation and efficiency measures—“purely offset[] [their] own energy usage outside of the grid.” Final Order at 16-18.

### **III. The Commission Should Exclude Non-Exporting Customer-Generators From The New Schedules 6 and 8.**

For the reasons set forth above and in Vote Solar’s Petition for Reconsideration, the Commission should order IPC to exclude non-exporting self-generating customers from Schedules 6 and 8. Those new customer classes should be limited to the “bi-directional” customers for whom the Company provided load data in the record and that have the distinguishing characteristics found by the Commission. No other outcome is justified by the record.

Moreover, as Staff previously pointed out, limiting Schedules 6 and 8 to customers who export will also help to narrow the scope of the forthcoming dockets related to costs, benefits, rates, and rate design for customers in those classes. Staff Response to Vote Solar Petition for Reconsideration at 2 (June 5, 2018) (“Staff Response”). As noted above, there is no record on load shapes and costs for non-exporting customer-generators. However, customers who do not export inevitably have different load profiles, and likely have different costs, benefits, and responses to rate design than customers who do export. Therefore, the focus of the future docket on costs, benefits, rates, rate design, and compensation for customers in Schedules 6 and 8 will benefit from a focus on only the unique costs and benefits of those customers with exports.

Staff previously advocated that Schedules 6 and 8 should exclude only those customer-generators who “are *incapable* of exporting energy to the grid” through the use of “a Grid Tie

Limited, Grid Inverter with Export Control, or similar device.” Staff Response at 2 (emphasis original). Vote Solar understands that most modern inverters are capable of preventing exports, so a requirement to use such a device is unlikely to add equipment costs for customers. However, the requirement may add uncertainty and administrative costs that outweigh any benefit from the requirement. Market signals will ensure that any actual exports from customer-generators outside Schedules 6 and 8 will be *de minimis*. Customer-generators opting out of Schedules 6 and 8 will not receive credit for any exports—meaning that any electricity incidentally delivered to the grid provides no value to the customer-generator and constitutes a financial loss to the customer and a benefit to IPC. That financial disincentive will ensure any actual exports from customers opting out of Schedules 6 and 8 are minimal. Nevertheless, to the extent that IPC’s meters are incapable of measuring only imports, excluding only customers incapable of exports through the use of a device avoids any concern about intra-hour “masking” of import energy flow.<sup>3</sup>

DATED this 9<sup>th</sup> day of August, 2018

Respectfully submitted,

/s/ David Bender

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<sup>3</sup> IPC’s Answer to Vote Solar’s Petition for Reconsideration includes a discussion of testimony at hearing related to whether IPC’s meters are capable of detecting use of grid-supplied electricity within a one-hour interval. *See* IPC Answer at 5. The testimony IPC cites was related to a different issue and does not indicate whether IPC’s meters are capable of being set to record only inflows (i.e., whether the inter-hourly “back and forth interaction” is a result of being set to record bi-directional flows or inherent regardless of settings).

## CERTIFICATE OF SERVICE

I HEREBY CERTIFY that I have this 9<sup>th</sup> day of August, 2018, served the foregoing VOTE SOLAR'S BRIEF ON RECONSIDERATION upon all parties of record in this proceeding, via the manner indicated:

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